BEFORE THE INDUSTRIAL TRIBUNAL IN MYSORE, BANGALORE.

Dated 23rd November 1970.

Present:

Sri R. V. Kollali, B.A., LL.B., *Presiding Officer.*

Complaint No. 5 of 1968.

in I. D. No. 75/1967.

Complainants.		*Opposite Party.*
Sri N. Madaiah and 2 others, C/o. General Secretary, Bangalore District Textile Workers, Union, No. 50-A, Arcot Srinivasa Char Street, Bangalore-2.	*Vs.*	The Management of T. R. Mills Private Ltd. Chamarajpet, Bangalore-18.

Appearance.

For the Complainants—Sri S. Suryanarayana Rao General Secretary, Bangalore District Textile Workers' Union Bangalore-2.

For the opposite Party:—B. Krishnappa, Labour Adviser, T. R. Mills Private Ltd., Bangalore-18.

AWARD

This is a Complaint by three complainants alleging that they were victimised and put under unfair labour practice because they joined the Bangalore District Textile Workers, Union and that in protest against the dismissal of some employees and the unfair labour practice resorted to by the Management, the workers of the Opposite Party went on a strike from 12th December 1967 and that after the Government referred the dispute for adjudication and prohibited the continuance of strike on 22nd December 1967, the complainants reported for duty on 29th December 1967 but were not taken back to work and were thus terminated from their services from 29th December 1967. It was alleged that the action of the Management was illegal, as no approval was sought from the Tribunal and hence this complaint under Section 33-A.

2. By the objection, the Opposite Party contended that the complaint is full of false allegations; that the complainants could not be represented by their present representative because the latter is not an office bearer of the T. R. Mills and Chandra Mills Labour Association to which the complainants belong; that there could not be a Joint Complaint by all the three complainants that the three complanants were not concerned workmen in I.D. No. 75/67 and hence they cannot come before the Tribunal with a complaint that the first complainant N. Madayya absented himself from duty from 12th December 1967 to 31st December 1967 and thereafter voluntarily left the service, the third complainant A.K. Ramu pending enquiry absented himself without leave or permission till 29th February 1968 and thereafter voluntarily abandoned service, and the second complainant R. Mariyappa did not turn up for work 23rd December 1967 and abandoned the service.

3. The following issues were set down:

(1) Whether the Opposite Party has contravened the provisions of Sec. 33 of the Industrial Disputes Act, 1947?

(2) Whether this consolidated complaint of the workmen maintainable under Sec. 33-A of the Industrial Disputes Act, 1947?

(3) Whether the complainants are members of a registered Trade Union Called "T.R. Mills and Chandra Mills Labour Association" and if so, whether Sri S. Suryanarayana Rao who is neither an officer nor a Member of that Association is incompetent to represent the complainants?

(4) Whether the complainants are concerned workmen' in I.D. No. 17/1967 on the file of this Tribunal, within the meaning of that expression as used in Sec. 33 of the Industrial Disputes Act, 1947, and is the complaint maintainable?

(5) Whether the services of the complainants have been terminated with effect from 29th December 1967 on account of their trade union activities and in violation of the principles of natural justice

Or

Whether the complainant No. 1 *viz.* N. Madayya absented himself without leave or permission during

the period stated in para 5 of the objection statement and thereafter voluntarily left the services of the Opposite Party ?

(6) Whether the complainants Nos. 2 and 3 *viz* R. Mariyappa and A. K. Ramu absented themselves without leave or permission during the period stated in para 5 (2) and (3) of the objection statement and thereafter voluntarily abandoned their services ?

(7) To what reliefs are the complainants entitled

4. My findings are :—

(1) No.

(2) Yes.

(3) Yes for the first part and yes for the second part.

(4) No.

(5) No. for the first part and Yes for the second part.

(6) Yes.

(7) Nil.

Reasons :—The Complainants took no steps in this case. The Write Petition on the basis of which the present proceeding was pending was disposed of on 22nd September 1970. The notice sent to the second complainant was returned unserved. The first and the third complainants have sworn affidavits before the Notary stating that they each have no subsisting dispute with the Management and they did not require any relief from this Tribunal, as their claims have been settled satisfactorily by the Management and the each had left the service with the Management voluntarily. The affidavits have also stated that they were both members of the T. M. Mills and Chandra Mills Labour Association represented by its Secretary, S. Ramachandra who had been requested to represent them both in this case and withdraw all claims, if any, on their behalf. The position emerging from the two affidavits is that Complaint Nos. 1 and 3 have no subsisting dispute with the Opposite Party and have affirmed that they have voluntarily left the Services of the Opposite Party. It is also affirmed by both of them that their are members of the T.R. Mills and Chandra Mills Labour Association for which the Secretary is one Sri S. Ramachandra. The claim of Sri S. Suryauarayana Rao as made in the complaint that the compalnants were members of the Bangalore District Textile Workers' Union as office bearers of which he had

the authority to represent the union is not substantiated. The second complainant, as stated already, has not been present before this Tribunal and the notice sent to him has been returned unserved. There is, therefore, no evidence of any kind to support the claim of Sri S. Suryanarayana Rao to enable him to represent the complainants.

5. The Manager of the Opposite party has stated that none of the three complainants had been terminated or removed from service by the Management at any time and that they had voluntarily stayed away from work. He also referred to the affidavits of complainants No. 1 and 3 which have been marked as Exhibits M1 and M2. He further stated that I D. No. 75/67 related to the alleged termination of 9 employees specifically and had nothing to do with the present complaint. He also stated that an award had been passed in I.D. No. 75/67 rejecting the claim to reinstatement of the 9 concerned employees in the dispute. That is the only evidence before me.

6. In view of what I have stated above, I answer Issue No. III in the affirmative for the first part and the second and Issue No. IV. in the negative and the first part in the Issue No. V in the negative while second part in the affirmative and the Issue No. VI has been answered in the affirmative.

7. In view of the above findings, the charge of contravention of the provision of Sec. 33 cannot be sustained and hence Issue No. I is answered in the negative.

8. I find no specific bar to the filing of a joint complaint if the cause for the complaint is one and the same. Therefore, I find Issue No. II in the affirmative.

9. In view of the above findings, it follows that the complainants are not entitled to any relief and hence Issue No. VII is also answered in the negative. I pass the following award.

AWARD

The complaint is dismissed. No order as to costs.

R. V. KOLLALI, 23-11-70
Presiding Officer,
Industrial Tribunal, Bangalore.